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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

CURTIS ANTHONY GOODWIN, JR.,

Defendant and Appellant.

A122521

(San Mateo County  
Super. Ct. No. SC065713)

**INTRODUCTION**

Following a search of his home pursuant to a search warrant, defendant and appellant Curtis Anthony Goodwin, Jr., was arrested on weapons and narcotics charges. The warrant application included an affidavit that the magistrate sealed in order to protect the identity of confidential informants. After moving unsuccessfully to unseal the affidavit in its entirety and quash the warrant, defendant pleaded no contest to possession of a controlled substance and possession of an assault weapon.

Pursuant to *People v. Hobbs* (1994) 7 Cal.4th 948 (*Hobbs*), defendant requests on appeal that we conduct an independent review of the sealed material, including the transcript of the in camera hearing, to determine whether the trial court erred in denying his motion to unseal the search warrant affidavit and quash the search warrant. Having done so, and finding no error in the trial court's rulings, we affirm the judgment.

## BACKGROUND

On December 17, 2007, at approximately 7:10 a.m., Redwood City police officers arrived at defendant's apartment at 1533 Oxford Street, Apartment 5, to execute a search warrant issued upon probable cause to believe they would find, amongst other things, cocaine, drug paraphernalia, receipts, keys, records and weapons. Defendant was at home when the police arrived. During the search of defendant's apartment, police found shotgun shells and a box of .38-caliber ammunition. Police also found a set of keys to the carport storage area dedicated to apartment 5. Inside the carport were storage lockers. In the storage lockers police found a sawed-off shotgun and an assault rifle with two magazines containing forty-one rounds of .233-caliber ammunition. Police also found nine generic Vicodin pills in a golf bag located inside the carport. After the search was concluded, defendant was arrested and advised of his *Miranda*<sup>1</sup> rights. Defendant waived his *Miranda* rights and admitted to ownership of everything found in the carport.

On March 10, 2008, the San Mateo County District Attorney's Office (DA) filed an Information charging that on or about December 13, 2007, defendant possessed a controlled substance (Health & Saf. Code, § 11350, subd. (a)) (count one); was a felon in possession of a sawed-off shotgun (Pen. Code,<sup>2</sup> § 12021, subd. (a)(1) (count two); was a felon in possession of an assault rifle (§ 12021, subd. (a)(1)) (count three); was a felon in possession of ammunition (§ 12316, subd. (b)(1)) (count four); willfully possessed a sawed-off shotgun (§ 12020, subd. (a)) (count five); and possessed an assault weapon (§ 12280, subd. (b)) (count six). The Information also alleged defendant had two prior felony convictions rendering him ineligible for parole absent unusual circumstances (§ 1203, subd. (e)(4)).

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<sup>1</sup> *Miranda v. Arizona* (1966) 384 U.S. 436.

<sup>2</sup> Further statutory references are to the Penal Code unless otherwise noted.

On April 11, 2008, defendant filed a motion to unseal the search warrant and the affidavit in support of the search warrant (affidavit), and to suppress evidence. In his motion, defendant stated the search warrant and affidavit had been sealed when the warrant issued. Defendant asserted that the trial court should conduct an in camera hearing to determine whether the affidavit should be released to the defense. Defendant also contended that evidence seized pursuant to the search warrant should be suppressed because (1) the search warrant did not describe with particularity the property to be seized; and (2) the search warrant authorized a general search with no restrictions placed on the area to be searched.

On June 20, 2008, the trial court held an in camera hearing where it reviewed the affidavit. At the in camera hearing, the trial court decided which portions of the affidavit should be redacted in order to protect the identity of confidential informants, and ordered that the edited version of the affidavit be provided to defense counsel. The court ordered the transcript of the in camera hearing sealed.

After the trial court ordered release of the edited version of the affidavit to the defense, defendant filed supplemental points and authorities in support of his motion to suppress, contending that the storage lockers were outside the scope of the search warrant. On July 21, 2008, the trial court denied defendant's motion to suppress. After the trial court's denial of his motion to suppress, defendant pled no contest to counts one (possession of a controlled substance) and six (possession of an assault weapon) in return for a maximum sentence of two years, as well as dismissal of the remaining counts and the special allegations.

On August 22, 2008, the trial court sentenced defendant to a term of two years on count six and a concurrent term of two years on count one, with credit for time served of 380 days. Defendant filed a timely notice of appeal on August 22, 2008.

## DISCUSSION

In *Hobbs, supra*, our Supreme Court, “in order to strike a fair balance” between the People’s right to protect the identity of its informants and the defendant’s discovery rights, outlined the procedures to be followed when a defendant cannot “make an informed determination whether sufficient probable cause existed for the search (in consideration of a motion to quash the warrant)” because a “portion or all of the search warrant affidavit” has been sealed. (*Hobbs, supra*, 7 Cal.4th at pp. 971-972.) The Court instructed that where the defendant moves to quash the search warrant, “the lower court should conduct an in camera hearing . . . [to] first [] determine[] whether sufficient grounds exist for maintaining the confidentiality of the informant’s identity. It should then be determined whether the entirety of the affidavit or any major portion thereof is properly sealed, i.e., whether the extent of the sealing is necessary to avoid revealing the informant’s identity.” (*Id.* at p. 972.) “[I]f the affidavit is found to have been properly sealed and the defendant has moved to quash the search warrant (Pen. Code, § 1538.5), the court should proceed to determine whether, under the ‘totality of the circumstances’ presented in the search warrant affidavit and the oral testimony, if any, presented to the magistrate, there was ‘a fair probability’ that contraband or evidence of a crime would be found in the place searched pursuant to the warrant. (Citations)” (*Id.* at p. 975.) “In all instances, a sealed transcript of the in camera proceedings, and any other sealed or excised materials, should be retained in the record along with the public portions of the search warrant application for possible appellate review. (Citation.)” (*Ibid.*)

Here, the trial court held an in camera hearing; determined that portions of the affidavit should remain sealed in order to avoid revealing the identities of the confidential informants; released an edited version of the affidavit to defendant; permitted defendant to renew his suppression motion with the benefit of the edited version of the affidavit; and thereafter denied the motion to suppress. We have reviewed the transcript of the in camera hearing, and have compared the unredacted version of the affidavit with the

redacted, or edited, version of the affidavit. We conclude that the redactions to the affidavit made by the trial court were necessary and appropriate to protect the identities of the People’s confidential informants. (*Hobbs, supra*, 7 Cal.4th at p. 971 [“all or any part of a search warrant affidavit may be sealed if necessary to implement the [informant’s] privilege and protect the identity of a confidential informant”].) We further conclude that the original, unredacted search warrant affidavit supports “the magistrate’s finding of probable cause to issue the warrant.” (*Id.* at p. 977.) There is no error to correct on appeal pursuant to *Hobbs, supra*.

**DISPOSITION**

The judgment is affirmed.

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Jenkins, J.

We concur:

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McGuiness, P. J.

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Pollak, J.